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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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Special Rapporteur on the right to education

Addendum

Mission to Uganda
26 June - 2 July 1999

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Executive summary

The Special Rapporteur on the right to education visited Uganda from 26 June to 2 July 1999 upon the invitation of the Government. The objectives of the visit were to assess the realization of the right to education, especially experiences with universal primary education (UPE), introduced in 1997, in reducing financial obstacles impeding access to school, and to analyse the mainstreaming of human rights and gender into the policy and practice of the Government and the international creditor and/or donor community with regard to education. The Special Rapporteur, accompanied by a staff member of the Office of the High Commissioner for Human Rights (OHCHR), had numerous meetings with governmental actors, multilateral and bilateral agencies working in the field of education, gender and human rights, as well as non-governmental organizations and academic institutions.

The Special Rapporteur has applied human rights impact assessment to debt relief, structural adjustment and aid policies. This is deemed a suitable method for identifying and remedying negative impact and the first step towards mainstreaming human rights into international cooperation. The Special Rapporteur has found that Uganda's debt repayment takes precedence over its human rights obligations, thus undermining the priority required to be accorded them under international law. The increased political and financial support to UPE is a promising sign of greater international and domestic attention to creating a basis for effective recognition of the right to education. Integration of human rights into the sectoral strategy for education has been facilitated by the success of UPE. This has created an environment for translating the right to education into a reality instead of being perceived, as it often is, as a gift. The political commitment and the priority which UPE enjoys in aid and budgetary allocations provide the opportunity for designing the legal framework necessary to sustain primary education after donors' financial support and the accompanying conditionalities come to an end.

The Special Rapporteur has applied her "4-A scheme" (availability, accessibility, acceptability and adaptability) to analyse human rights obligations corollary to the right to education. She noted the huge challenge which Uganda is facing in ensuring the availability of schools and teachers for its youthful population. Securing access to school for girls has been prioritized, while the shift to inclusive education promises to improve access to school for children with disabilities. She has highlighted aspects of the acceptability criterion, ranging from the absence of all internationally prohibited grounds of discrimination to school discipline, evidenced by corporal punishment or the "disabling" of pregnant schoolgirls in the continuation of their education. With regard to adaptability, the Special Rapporteur has emphasized the need to accommodate expectations whereby education would be vocationalized so as to equip learners with income-generating abilities and skills and thus contribute to poverty eradication.

A series of recommendations, addressed to the Government as well as to the creditor and/or donor community highlights the steps necessary to integrate fully human rights, gender and education.

Introduction

1. On 9 April 1999, the Government of Uganda invited the Special Rapporteur on the right to education to visit the country. The Special Rapporteur visited Uganda in the exercise of her mandate from 26 June to 2 July 1999. She gratefully acknowledges the speed and efficiency with which the Office of the High Commissioner for Human Rights prepared her mission and facilitated her work in Uganda.

2. The objectives of the visit were (i) to assess progress in the realization of the right to education, with particular emphasis on the universal primary education (UPE) programme initiated in 1997; (ii) to appraise the experience and prospects of reducing financial obstacles impeding access to school; (iii) to review the interpretation and application of human rights obligations throughout the education process; and (iv) to analyse possibilities for mainstreaming human rights and gender in education, with particular emphasis on primary education.

3. The programme of her visit to Uganda was guided by the Special Rapporteur's approach to studying financial obstacles to access to education, which encompasses their international and domestic determinants, as well as identifying facilitating and inhibiting factors. The Special Rapporteur, accompanied by a human rights officer of the Office of the High Commissioner for Human Rights, met with officials of the Ministry of Education and Sports, the National Centre for Curriculum Development, the Ministry of Gender, Labour and Social Development, the Ministry of Foreign Affairs, the Prison Commissioner and his staff, the Uganda Human Rights Commission, and also UNICEF, the World Bank, USAID and the (United Kingdom) Department for International Development (DFID). Alongside these meetings, the Special Rapporteur had a series of informal encounters with representatives of human rights organizations and academic institutions. This wide range of actors, together with a great deal of documentation, enabled the Special Rapporteur to obtain an insight into the variety of influences upon and expectations arising from UPE, in its third year at the time of the visit. Not only UPE but the entire field of education has been marked by rapid change. Wherever possible, relevant quantitative and qualitative information is sourced to the documents made available to the Special Rapporteur during her visit. Where information could not be verified, this is noted in the present report. The Special Rapporteur sees her visit to Uganda as the beginning of a process aimed at mainstreaming human rights and gender throughout education. She is encouraged by the interest shown throughout her visit in linking education and the right to education. She is grateful to all those who shared their knowledge, experience and ideas with her, and appeals to them all to continue the dialogue started during her visit by providing her with feedback on the present report and with information concerning any developments relevant to the right to education.

4. There are two dimensions to the domestic framework which determines the fate of the right to education. The first consists of formally adopted constitutional and legal guarantees, macroeconomic and sectoral strategies, and institutional infrastructure aimed at translating them into practice. They are influenced a great deal by the compounded pressures of poverty and debt repayment. Dependence on international and foreign funding for most

human rights, gender and educational programmes is pervasive. This is well documented in primary and secondary written sources, which are widely available and have the advantage of the working language being invariably English. The second dimension is only revealed in a visit to a country. It encompasses the interplay amongst the historical heritage of the country, the current atmosphere there, the role of prominent personalities in shaping events, popular perceptions of these events and related expectations.

5. At the time of the mission, public debate was focused on the referendum to be held in the year 2000 concerning whether the movement-based political system should be maintained or a multi-party political system introduced. Security concerns ranged from the recent bombings and killings in the capital to the continuing warfare in the Democratic Republic of the Congo and in northern Uganda. Corruption seemed by far the favourite topic in the mass media. These issues derive their specific meaning and importance from Uganda's history, which did not leave a legacy that would facilitate the recognition and realization of human rights, or leave an educational infrastructure that would make recognition of the right to education possible. This legacy is reviewed below, with a summarized account of important political developments and a parallel description of educational strategies pursued (or at least planned) in previous decades.

I. THE HISTORICAL INHERITANCE

6. During colonial times Uganda was known as the pearl of Africa for its beauty, fertile land, lush vegetation and abundance of locally grown food. It became known again as the pearl of Africa in the early 1990s, when peace and security had been re-established in most parts of the country, a public administration had been built to provide essential services and a structural adjustment programme had been successfully implemented, keeping the rate of economic growth above 6 per cent, while servicing a huge debt. Decades of turmoil following Uganda's independence had much to do with the legacy inherited from the colonial time and prevented the forging of a State that would have overcome this legacy.

7. Uganda started her independence with a federal system (commonly referred to in Uganda as quasi-federal) which exacerbated the diversity of the country and further politicized ethnic, religious and linguistic differences. Education had a long history of missionary schools, with the corresponding content, methods and language of instruction, and did not contribute much to the articulation of a language policy or to a portrayal of Uganda's diversity in school textbooks.

8. Education introduced during the colonial times merged religious conversion and formal schooling with English as the language of instruction. By the time of independence, schooling thus orientated was established up to the university level. In the first post-independence decades, little was done to indigenize education or even to maintain public schooling. The result was a high illiteracy rate, especially in rural areas and among women.

9. The period 1962-1986 was authoritatively classified as the era of human rights violations by the Commission of Inquiry into the Violation of Human Rights (1986-1994). Its work covered the time between independence in 1962

and the takeover by the National Resistance Movement (NRM) Government in January 1986. The Commission faulted all previous Governments for institutionalized abuse of power. While the Commission was not the first body endowed with powers of investigating abuses committed by previous regimes, the implicit commitment in its establishment was that it would be the last such body and that institutionalized abuse of power would henceforth be prevented.

10. In 1995, constitutional and legal human rights guarantees started being adopted within Uganda's movement-based political system. This was followed by the establishment of the Uganda Human Rights Commission, while a host of other governmental institutions (the Inspector General of Government, the Auditor General, the Judicial Service Commission, the newly established Ministry of Ethics and Integrity, as well as the Public Accounts Committee of Parliament) have been set up to prevent abuse of power and are concentrating on exposing and opposing corruption. A large number of non-governmental organizations - international, foreign and domestic - work in Uganda in areas related to the right to education (such as social development, literacy, special education, gender, human rights) but few explicitly address that right, thus exacerbating the paucity of conceptual and analytical work necessary for its promotion and protection.

11. The Special Rapporteur acknowledges the extent of the obstacles in the path of full recognition and effective realization of the right to education in Uganda. Neither the colonial legacy nor the first decades of independence left the country equipped to address adequately education, human rights and gender equality, and least of all the right to education which cuts across all three of these areas.

A. The legacy of previous governments

12. Uganda's colonial history is often traced back to the penetration of the Imperial British East African Company in 1890 and the takeover by the British Government four years later. In between, a series of civil wars was fought between different religious factions (1891-1892). There was no country-wide struggle for independence in Uganda; some of the political parties that still exist today were formed in the pre-independence years around ethnic and religious communities, especially in Buganda, which had had a long history as an independent and well-organized kingdom and enjoyed a privileged status during the colonial time.

13. Uganda gained its independence in 1962, with Milton Obote as Prime Minister and with a partially-federal constitutional arrangement. The position of Buganda and three other kingdoms exacerbated and politicized conflicts between established ethnic, religious and linguistic communities. The initial constitutional guarantees were gradually abrogated, culminating in what was dubbed "the pigeon-hole constitution", distributed in 1966 to parliamentarians' pigeon-holes just as they were to adopt it. The slide towards the rule of force was hastened by increasing reliance on the army and in 1971 Idi Amin became President of Uganda after a military coup. He stayed in power till 1979 and was ousted through Tanzanian military intervention. Amin's rule made Uganda internationally notorious for killings, disappearances and torture. What brought the international spotlight upon Uganda, however, was not the atrocities committed against Ugandans but the mass expulsion of

Asians. Amin's justification for this expulsion was that the Ugandan economy was dominated by non-citizens and Asians were accused of sabotage and corruption. Uganda's Truth Commission noted two decades later that "the expulsion was on the whole popular amongst Ugandans". 1/ This mass expulsion provoked vehement foreign and international protest.

14. The United Nations response to human rights violations by Idi Amin's government came too late because of the change of government. Uganda's armed attack on Tanzania led to a Tanzanian counter-attack in March 1979, which ended Idi Amin's regime. On 28 September 1979, the new President of Uganda addressed the United Nations General Assembly and noted that "the United Nations looked on with embarrassed silence [while] at least half a million people were murdered in cold blood". 2/ A swift transition from one governing regime to another followed in 1979-1980, leading to elections in December 1980 which were endorsed internationally but challenged domestically. They brought Milton Obote back to power, but warfare continued till 1986. The response of the United Nations was again faulted retroactively: although ongoing abuses had been documented, advisory services were provided to Uganda during this period, including the training of prison and police officials at a time when the Government had withdrawn authorization for the International Committee of the Red Cross (ICRC) to visit detainees. 3/

15. Human rights work started in earnest in the 1980s, typically focusing on summary killings, disappearances, torture, ill-treatment of detainees, political rights and civil liberties. Parallel work on development has grown much more (both in quantity and quality), but conceptual linkages between human rights and development have yet to be forged. This is particularly visible with regard to the eradication of poverty, which needs a human rights underpinning, as well as concerning economic, social and cultural rights for which operationalization wavers between an unrealistic expectation that the Government will provide necessary services to all free of charge, and surrender in the face of the combined obstacles of poverty and debt servicing. The Special Rapporteur fully acknowledges the enormity of the challenge, as well as the absence of an international rights-based strategy for Uganda that would facilitate the conceptualization of economic, social and cultural rights. Promising developments at the international level include the rights-based country programming of UNICEF and the explicit incorporation by DFID of the human right to education in its aid policy.

16. Much debate in Uganda focuses on the movement versus a multiparty political system. Those who fear that political parties would replicate regional, ethnic and religious divisions invoke the experience of the decades when chaos prevailed, precluding the emergence of a shared vision of the country's future. Proponents of multipartyism point out that the emergence of such a shared vision necessitates the free articulation of different collective and individual interests, for which political parties are the normal channel and for which the full range of political rights should be guaranteed. The implications of different models of political organizing for economic governance provide a conceptual bridge for linking political with economic governance. The Special Rapporteur sees a great deal of potential for overcoming the inherited abyss between civil/political and economic/social/cultural rights in treating political rights as an instrument for attaining economic, social and cultural rights. While the previous

decades left a negative heritage, as is summarized below, the political and financial commitment to investment in education that led to UPE in 1997 promises to remedy the inherited dissociation between political and economic governance and open the way towards defining the right to education within Uganda's specific international and domestic environment.

B. Colonial and post-colonial education policies

17. The history of education is much longer than Uganda's statehood. Written histories tend to ignore indigenous education and begin with the first formally established non-indigenous schools, pointing out that these enrolled a couple of hundred children in 1898, broadening their coverage to 22,000 in 1903. 4/ Formal schooling was introduced by missionaries (the main religions were the Anglican and Catholic Churches and Islam) at the time when colonial Uganda was being formed into a future State. Although Islam preceded the introduction of Christianity in the late 1870s, Koranic schools were not immediately set up nor were they widespread. Anglican and Catholic mission schools also were unevenly spread between different regions. The mission schools introduced English as the language of instruction, whatever the pupils' mother tongue. The missionary tradition emphasized religion-based general education (religious conversion and instruction formed the core of the curriculum followed by secondary boarding schools) geared towards employment in the lowest ranks of the colonial administration. The colonial administration formally incorporated education in 1925 and the first annual report on education illustrates how it operated: "each teacher in charge of a bush school is supposed to visit the village around and seek to interest the people in the Christian message and call the children to school". 5/ Schooling was thus inextricably associated with Christianity.

18. Following independence in 1962, a series of attempts was made to secularize and indigenize education. The 1964 Education Act laid down the principle of non-denominational schools and the subsequent Act of 1970 asserted full control over schools. These precepts were not effectively implemented owing to the inability of consecutive governments to put their education strategies into practice. 6/ Education continued through a combination of religious schools and parental and/or community initiatives. Nevertheless, there was a trend towards centralized policy-making, funding and control until the process of decentralization started in the mid-1990s.

19. Secondary rather than primary education was prioritized in the 1960s, with boarding schools constituting more than two thirds of secondary schools. Primary education was shortened from eight to seven years. This trend was associated with the priority for turning out the highly-educated people necessary to govern and develop the country. The syllabus of the time did not include subjects such as agriculture (in a country where the bulk of the population depends on agriculture for their livelihood) and schooling continued in English (the mother tongue of an extremely small minority). The purpose of primary school remained preparation for secondary education, despite the fact that fewer than 1 in 10 of the children who made it to primary school actually continued on to secondary school.

20. A great deal of damage was done to the educational system as a whole, between 1971 and 1979 by the political repression that targeted teachers and

students, and by economic mismanagement. That schooling continued was due to parental and community efforts. Indigenization of the syllabus and of the teaching profession followed the massive exodus of expatriate teachers in 1971-1972. English was retained as a compulsory core subject and the Swahili and Luganda languages were introduced. Rehabilitation of schools after the end of Idi Amin's rule relied a great deal on parents and communities; consecutive governments only funded teachers' salaries.

21. A 1986 stocktaking found that Uganda's problems in education were - 23 years after independence - the same as at the time of independence. 7/ The Education Policy Review Commission was established in 1987, chaired by Professor William Senteza Kajubi, to carry out a comprehensive analysis and suggest a blueprint for the future. The Commission found that a great deal of change was necessary to remould schooling as it was not only "too academic and theoretically oriented", preparing children for largely non-existent white-collar jobs, but also too centralized and lacking a language policy. The report of the Commission 8/ was followed up by the 1992 white paper 9/ upon which the present education strategy is based. The combination of a devastated economy, desperate poverty and the pressure of debt servicing postponed the putting of these ideas into practice till 1997.

II. THE CONTEMPORARY INTERNATIONAL ECONOMIC ENVIRONMENT AND THE NEED FOR HUMAN RIGHTS IMPACT ASSESSMENT

22. International human rights law assumes that international cooperation promotes human rights, especially economic, social and cultural rights and the rights of the child. This pre-empts asking whether it can actually impede their realization. A great deal of critique targeting policies designed to facilitate debt repayment by countries such as Uganda at the expense of investment in human rights opened the way for analysing two potentially conflicting roles of aid: it can impede or facilitate recognition and realization of human rights. In the case of Uganda, considerable change has taken place recently, transforming debt relief, structural adjustment and aid from being hostile to human rights to being human rights friendly, especially with regard to investment in education.

23. Aid to Uganda constitutes 8 per cent of the country's GDP, making up the shortfall between the Government's revenue of 11 per cent and expenditure of 19 per cent of GDP. Although the Government's debt strategy discourages new loans, not all aid is in the form of grants and what is nominally labelled as "aid" services debt created by previous loans (also labelled as "aid"). The need for a human rights impact assessment originates in the interplay between Uganda's debt servicing and human rights obligations and the dual role of many donors who are at the same time also creditors.

A. Conflicting role of creditors and donors

24. The Government of Uganda has many times acknowledged its overdependence on external funding, which stems from the external debt burden combined with low revenue generation. The influence of the international creditor/donor community with regard to education cannot be overemphasized: Uganda's debt burden constrains options for allocation of available resources, pressurizes economic development towards exports and foreign investment, and makes

education dependent on donor support. Because the bulk of debt is owed to the international donor community (the World Bank/International Development Association (IDA) is the most important creditor), a vicious circle develops of paying back past debts so as to be able to raise additional donor/creditor funding, thereby incurring further debt. The Special Rapporteur finds it necessary to raise a simple but important question: are loans for primary education facilitating or undermining the Government's obligation concerning the provision of primary education free of charge? The increasing role of bilateral donors in education has shifted the composition of aid from loans towards grants, but the available funds do not match the agreed priority of making primary education universally available: "targets imply very high levels of funds, for which we are dependent upon donor support. With existing financial commitments, funding gaps currently remain such that the full targets will not be met". 10/

25. The price of debt servicing, translated into domestic budgetary allocations and export-promotion, was impoverishment. 11/ The fate of the rural majority still does not figure in the macro-economic statistics that are used to assess Uganda's capacity for servicing its debt. Public investment to provide schooling for this rural majority enters such statistics on the debit side. The conflict between the huge investment necessary to provide primary education for all children (which will yield some long-term economic benefit) and the attractiveness of recouping owed funds by nudging the Government into investments that will yield high short-term economic benefits is obvious.

26. The rationale underpinning international human rights law is priority for investment in human rights. Because such investment does not yield immediate and high rates of return, it was envisaged as an essential governmental function. Governments that were willing but unable to make such an investment were to be assisted through international cooperation. This rationale was turned around when a Government's inability to invest in human rights was reinforced by international debt-servicing policy inhibiting such investment. Conditions (routinely called "conditionalities") attached to macro-development strategy negotiated between the Government and the main actors representing creditors and donors precluded an effective recognition of human rights, specifically the right to education. The Special Rapporteur has been encouraged by changes in creditors' and donors' policy in 1997-1999, which opened the way towards universalizing primary education and thus created the possibility of effective recognition of the right to education.

27. Human rights require micro-level analysis - routinely excluded from the macro-development framework - which posits as its target the rights of each individual and prioritizes the rights of each child. Uganda's principal development objective has been defined as "sustaining high and broad-based economic growth in which the poor are able to participate". 12/ An implicit assumption is that investment in human rights is justifiable to the extent that it contributes to economic growth. Indeed, funds earmarked for improving the quality of life of the poor are classified as expenditures and are dependent on donor support. 13/ They appear as an "optional extra" rather than a key component of development. The linkage between literacy and economic growth is described thus by the World Bank:

"[T]he Government should seriously consider outreach programmes to attack illiteracy nationwide. This should be done without delay in order to equip Ugandans with basic literacy and numeracy skills to be better able to participate in and bring about the growth required for poverty reduction." 14/

28. The Special Rapporteur does not question the necessity of prioritizing economic growth in order to enable the Government to raise revenue necessary for investment in human rights. Nevertheless, she feels the need to point out that defining education solely as an instrument for poverty reduction and/or economic growth does not conform to the definition of the right to education in international human rights law. Investment in education therefore does not necessarily facilitate effective recognition of the right to education and so the impact of such investment ought to be carefully assessed.

B. Uganda's conflicting international obligations

29. Two conflicting types of international obligations - debt repayment and human rights obligations - have to be analysed in conjunction: the priority accorded to debt repayment can jeopardize investment in human rights. Both types of obligations are subsumed under international cooperation because a large proportion of debt is owed to multilateral agencies and individual donor Governments that alternate between the roles of creditor and donor. Where internally generated revenue is insufficient for both debt repayment and implementation of human rights obligations, as it is in Uganda, the priority accorded to debt repayment undermines investment in human rights. Moreover, during her visit to Uganda, the Special Rapporteur found a great imbalance between the high priority attached to debt servicing amongst international and domestic actors she talked to and the paucity of attention to Uganda's international human rights obligations, ranging from widespread uncertainty as to what Uganda's human rights obligations actually are and what they entail in the area of education, to poor compliance with reporting obligations under human rights treaties, or poor translation of international obligations into domestic human rights safeguards.

1. Debt repayment

30. The main actors in decision-making with regard to debt relief are creditor multilateral agencies (IMF, the World Bank/IDA) that do not consider themselves bound by international human rights law, and groupings of creditor countries (such as the Paris Club or G-7/G-8) that are not bound by international law at all. A great deal of effort has been devoted to arguing that such actors should be bound by international human rights law, but they are not. Assessing the human rights impact of their decisions is therefore a tool for bridging this gap.

31. The need for human rights impact assessment stems from the fact that the macro-development framework (economic, monetary and fiscal) is defined through extra-legal procedures and is exempt from legal challenge, yet it determines the capacity of the Government to allocate resources according to its human rights obligations. The discrepancy between economic governance and human rights obligations is transposed from global to domestic decision-making

through the conditionalities attached to funding necessary for debt repayment, as well as determining eligibility for international and external funding necessary for investment in education.

32. Uganda first introduced its Economic Recovery Programme in May 1987 and has been implementing it for the past 12 years. It has been assessed as "ambitious and successful" by the criteria of high growth, low inflation, improved balance of payments and a strengthened private sector. 15/ Debt servicing was authoritatively assessed as impossible and in 1998 Uganda was the first highly-indebted poor country to receive debt relief. The decision was made in April 1997, but Uganda had to wait another year for implementation. The total nominal debt service relief agreed was $650 million. Uganda's debt is owed mostly to multilateral agencies and so $73 million was set for bilateral and $273 million for multilateral creditors (of which $160 million for the World Bank and $69 million for IMF). 16/

33. This debt relief has not been assessed as generous. The stringent conditions for eligibility were aggravated by the debt servicing to export ratio. The linkage of debt relief to exports shifts attention away from the impact of debt servicing on budgetary allocations. In 1998/1999, $175 million destined for debt servicing was reduced to $132 million, with $43 million in debt relief. Funds released through debt relief were transferred to poverty eradication, including primary education, trebling the central Government's transfers, earmarked for primary education, to the districts. The additional funding boosts that would become possible with further debt relief can easily be envisaged and it is regrettable that investment in essential services, such as education, needed to create a basis for the recognition of education as a human right, does not figure prominently in decision-making on debt relief.

34. The Special Rapporteur deems it important to emphasize that in the case of Uganda consecutive decisions on debt relief diminished its negative impact on human rights. She has been gladdened by the public attention in Western Europe which accompanied further promises of debt relief in June 1999 and will continue to follow developments concerning Uganda. Her numerous conversations in Uganda revealed, however, that - unlike debt repayment and/or structural adjustment - human rights obligations are not perceived as binding nor is meeting them facilitated by benchmarks and performance indicators.

2. Human rights obligations

35. The conflict between Uganda's debt repayment and human rights obligations is clear with regard to resource allocation. The two types of obligation pull in opposite directions - debt repayment towards diminishing governmental allocations for education and human rights obligations towards increasing such allocations. Although the growing influence of bilateral donors and conditionalities attached to their aid for education have increased the Government's budgetary allocation for primary education, this influence has not encompassed facilitating a translation of Uganda's human rights obligations - including those concerning primary education - into recognized and enforceable rights.

36. Uganda has ratified all the human rights treaties which include specific guarantees of the right to education. 17/ None of these can be directly

invoked by their potential beneficiaries and only for two treaties have reports been submitted by the Government. These two reports - on women's rights and the rights of the child - marked the beginning of a dialogue about the translation of international obligations into domestic human rights guarantees. The Committee on the Elimination of Discrimination against Women reviewed Uganda's first report in 1995 and "noted with concern the effects of structural adjustment programmes on women and children". The Committee noted as additional issues of concern the high percentage of households headed by girls and the sexual abuse of schoolchildren by their teachers and other adults. 18/ For its part, the Committee of the Rights of the Child expressed its concern about children not being registered at birth in many rural areas and at insufficient access to education; it emphasized "the low level of school enrolment and high drop-out rates for girls due to, inter alia, early marriage, the lack of learning and teaching facilities and materials, and the shortage of trained teachers". 19/

37. The Special Rapporteur was happy to learn that Uganda's second periodic report under the Convention on the Elimination of All Forms of Discrimination against Women is being finalized for submission. She was extremely concerned to find that there were no plans for the submission of the many overdue reports under other human rights treaties. The issue of the lack of reporting by Uganda has been raised by all the relevant human rights treaty bodies over the past two decades. There has been no change in the Government's performance thus far. The Uganda Human Rights Commission, mandated to monitor the Government's compliance with its international obligations, suggested that the government organ responsible for reporting "be clearly identified and officially demanded to fulfil its mandate". 20/ The Special Rapporteur endorses this suggestion and hopes that international human rights obligations will gradually come to be perceived as legally binding in practice and not merely in theory.

38. A great deal of human rights assistance that is being provided to Uganda does not follow the same strategy as in the field of primary education and appears to be dispersed amongst many different actors and projects. Since human rights is a cross-cutting issue, there is no obvious lead ministry nor is a single donor agency coordinating aid in this area. The Special Rapporteur is concerned about the manner in which human rights assistance is being provided. This was illustrated by the number of times she had to explain that she was not representing any donor nor starting any new project, which is obviously a broadly shared perception amongst both governmental and non-governmental actors as soon as "human rights" is mentioned in conjunction with "education".

III. DOMESTIC FRAMEWORK

39. The Special Rapporteur found that a great deal of uncertainty characterizes economic, social and cultural rights. On the one hand, they are identified with the Government's delivery of services and thus with meeting human needs, rather than with recognizing and protecting individual rights and freedoms. On the other hand, their recognition is deemed necessarily delayed till economic growth makes self-provisioning feasible.

40. The specific nature of social and economic rights requires their promotion through economic and fiscal policies, as well as through their legal recognition. Primary education has been granted an increased budgetary allocation in the period 1997-1999 and, in addition, has received considerable donor funding. The right to education is recognized in the Constitution but not in legislation and the UPE programme has no legislative underpinning. The Special Rapporteur's many questions concerning the sustainability of primary education subsequent to the end of donor funding and its fate in the budgetary allocation after the creditors' and/or donors' conditionality ends remained unanswered. The general hope that economic growth (to which education should contribute) would yield sufficient revenue for the Government to enable it to replace donor support may not be realized in the short term. The first UPE generation will finish school in the year 2003 and these 13-year-olds neither can nor should be expected to make a dent in poverty or to foster economic growth. The experience of many countries shows that increased demand for secondary education will be a certain outcome of the success of UPE thus generating further pressure for budgetary and donor allocations to education.

41. The Special Rapporteur feels that the recognition of the right to education constitutes the first necessary step towards defining the rights of the child and the corresponding obligations of the Government and parents necessary to sustain the successful increase in access to primary education through UPE. The African tradition of specifying individual duties and responsibilities (especially those relating to taxation, necessary to enable the Government to raise revenue) facilitates the designing of a legislative framework for the right to education.

A. Constitutional guarantees

42. Uganda underwent a pioneering exercise in constitution-making in the period 1988-1995. It started with the Constitutional Commission, which solicited views on what constitutional arrangements and guarantees there should be through a lengthy but inconclusive process. More than 700 seminars were held throughout the country and more than 20,000 written contributions were received. This consultative process led to a draft constitution in 1992, and was followed by elections to the Constituent Assembly and the finalization and adoption of the Constitution in 1995. The emphasis on the rights of women, children and people with disabilities in the Constitution was interpreted as an outcome of such a broad-based process of constitution-making.

43. The 1995 Constitution posited education as a right, specifying that each child is entitled to basic education, which is a shared responsibility of the State and the child's parents. The 1996 Children's Statute went further in defining the parental responsibility to maintain children, adding that this parental duty gave the child the right to education. These provisions have not been operationalized through subsequent legislation nor have they been reflected in the educational strategy, however.

44. Constitutional provisions relating to gender were far-reaching and have been subsequently reinforced through extra-legal measures. Uganda's Constitution affirmed women's right to affirmative action, which has been translated into practice in their political representation or access to

university. The National Resistance Movement (NRM) started affirmative action in 1987 by ensuring that at least one woman was a member of the then Resistance Councils, from the local level upwards, and the practice of reserved seats for women has continued. This practice has given women a political voice and made possible its gradual translation into women's equal rights to resources, especially land. The Special Rapporteur deems this issue to be crucial for motivating parents to educate their daughters because, for the bulk of Uganda's population, land is the key to survival and land ownership is the key to participation in decision-making from the family onwards.

45. Following the results of the 1991 census, analyses of people working in agriculture revealed that 70 per cent of men (and 27 per cent of women) were recorded as self-employed, while 73 per cent of women (and 30 per cent of men) were recorded as unpaid family workers. 21/ Women's ability to be recorded as self-employed depends on their ownership of land, where women still constitute a statistical minority under statutory law and are right-less under customary law. These bleak prospects for women's self-employment undermine incentives for their schooling. At the time of the Special Rapporteur's visit to Uganda, a great deal of attention was focused on the land reform legislation and on the uncertainty of prospects for women's land ownership which this process revealed. Co-ownership by spouses was proposed in the form of an amendment, which according to some interviewees had not been duly tabled and was thus absent from the adopted law. The Special Rapporteur was delighted to note the attention paid to the effects of land law on women, which vividly demonstrated how the exercise of political rights leads to demands for economic rights.

B. Education strategy

46. One striking feature of Uganda's educational policy is the non-use of human rights language, which illustrates the abyss between human rights and education. The Education Strategic Investment Plan 1998-2003 commits the Government to assuring universal access to primary education as the highest priority, points to the removal of financial impediments and pays particular attention to gender and regional equality. Putting the Plan into practice is envisaged through shared contributions by the public and private sector, by the household and the community. It confirms that "communities will retain responsibility for the expansion of primary classrooms". 22/ With the expansion of enrolments within UPE, the ability of poor rural communities to provide classrooms and to recruit and retain schoolteachers has placed an additional strain upon the fragile fabric of self-provisioning.

C. Budgetary allocations

47. The Education Policy Review Commission recommended that 20 per cent of the Government's budget be earmarked for education. This target was surpassed by the allocation of 33 per cent of the discretionary recurrent budget, out of which 62 per cent was devoted to primary education. 23/ Almost half of these funds went on teachers' salaries, with the building of classrooms and the purchase of textbooks being the other major items of expenditure. The UPE development budget was originally planned to increase from $60 million in 1997 to $125 million in 2002, the bulk of which (90 per cent) was expected to be funded by donors. These estimates proved to be much too modest and

projections of the funding needed to universalize primary education skyrocketed. Donor commitments increased (the United Kingdom committed £67 million and the World Bank $115 million), the Government's budgetary allocations even more.

48. Discussions about nominal budgetary allocations were inevitably accompanied by a switch of topic to corruption in the conversations which the Special Rapporteur had with diverse actors. A great deal of attention has been devoted to exposing and opposing corruption because it prevents apparent macro-level benefits from filtering down to the intended beneficiaries. Emanual Ablo and Ritva Reinikka carried out a much quoted study into the fate of budgetary allocations on their way from the central Government's budget to individual schools, teachers and children. Their findings challenged the officially recorded numbers of schoolchildren, showing that enrolment in the period 1991-1995 increased by 60 per cent rather than being stagnant as the official statistics would have it, while less than 30 per cent of public spending nominally allocated for education reached schools. 24/

D. Decentralization

49. Uganda has implemented a threefold process of decentralization: (i) political decentralization was initiated through the establishment of Resistance Councils during the war and broadened throughout the country as of 1986; (ii) administrative decentralization was introduced in 1993 with the aim of setting up local administration accountable downwards to the local population rather than upwards to the central Government; (iii) financial decentralization followed through unconditional and conditional block grants from central to local government and the introduction of locally decided budgets.

50. The process of decentralization increased the role of district authorities in the educational system, especially in primary schooling. Districts are expected to assume full responsibility "for the delivery of all primary and secondary educational services" 25/ and are recruiting teachers, while the Ministry of Education pays their salaries. Decentralization is envisaged to develop into devolution with regard to primary schooling. The head teacher, the management committee and parent-teacher associations (PTAs) are expected to run schools. During the time when a great deal of funding was secured through PTAs, their involvement in the running of schools was considerable and their role changed with increased funding from the central Government. A switch from parental involvement to defining schooling as community service (thus potentially involving both parents and non-parents) has not yet yielded discernable outcomes because it is a recent initiative. The Special Rapporteur will continue following with great interest the effects of decentralization on primary schooling.

IV. HUMAN RIGHTS OBLIGATIONS CORRESPONDING TO THE RIGHT TO EDUCATION

51. In her preliminary report (E/CN.4/1999/49) the Special Rapporteur developed a 4-A scheme (availability, accessibility, acceptability and adaptability) to analyse governmental obligations corollary to the right to education. It is applied here to Uganda.

A. Availability: schools and teachers

52. Primary education has immense importance because it is the only type of education to which most Ugandans can ever have access: secondary and university education are beyond the reach of the majority.

53. The challenge of making schooling available for all Ugandan children can be succinctly portrayed by outlining its major determinants: half of Uganda's population is younger than 15 and for each child there is only one adult statistically classified as pertaining to the labour force (15-64), thus making the dependency ratio 1:1. The estimated number of primary-school children is 6.5 million; the labour force is estimated at 8 million. The corollary financial obstacles are compounded by the legacy of widespread illiteracy, a ruined educational system and unpayable foreign debt bestowed upon the current generation by the previous decades. They are further compounded by the fact that Uganda is one of the least urbanized countries in Africa and providing schooling for a dispersed rural population is no easy task. Moreover, the fertility rate remains very high (Uganda's population is estimated to have grown from 16 million at the time of the 1991 census to 21 million in 1999), further increasing the youthfulness of the population, the consequent demand for schooling and the low generation of the revenue necessary to finance it.

54. Under the UPE programme, the officially reported enrolment in primary school trebled, 26/ making additional classrooms and teachers an urgent priority.

55. The huge increase in the number of learners has not yet been accompanied by the provision of an adequate number of schools and classrooms. The Uganda Bureau of Statistics reported 10,940 schools existing in 1997, 60 per cent of which were classified as "non-permanent", 40 per cent without safe water and 48 per cent without sanitation. The 1998 minimum conditions are used as guidelines for the building of new schools, not as yardsticks to eliminate the use of classrooms and/or schools that do not comply with these minimum criteria. The Special Rapporteur was told that schooling can still take place underneath a tree, while many children have not even seen separate toilets for girls and boys. Building and refurbishing schools to meet the requirements of the large number of learners with the limited funds available remains a huge challenge.

56. Primary schoolteachers have the status of civil servants (the official term is "public service" rather than "civil service" in Uganda) but have been exempt from the reductions affecting the public service. The number of primary-schoolteachers was officially recorded as 82,745 in 1995 27/ and increased significantly following the trebling of enrolment under the UPE programme. The Special Rapporteur could not verify the number of teachers in 1999 because the process of registering teachers on the payroll has not been completed, but the ceiling for their recruitment is apparently set at 94,300 under the public service hiring freeze. Teachers' monthly salaries were increased fivefold, from $8 to $72, between 1992 and 1997 and to $80 in 1998. Teachers' salaries were apparently the same whether they worked in the capital or in remote areas and were based on the public service classification rather

than the teacher's individual performance. The size of the effort that teachers are required to make is well illustrated by the ratio of 6 million learners to less than 100,000 teachers. The teacher-pupil ratio is set at 1:110, but in the final, seventh year of primary school the ratio tends to be 1:20, while for the first year it can reportedly reach 1:300. Various forms of multi-shift and multi-grade teaching are being experimented with to facilitate coping with such a huge number of learners.

57. The Special Rapporteur was often told that half of teachers are untrained. The National Commission for UNESCO was blunt in a self-assessment: "About 65 per cent of the teachers in [primary] schools are untrained and/or undertrained". 28/ The surge of children in the period 1997-1999 is likely to have worsened the situation and it is not yet known how much improvement has been achieved through the many ongoing teacher training projects.

58. As part of the public service, teachers were granted trade union freedoms as of 1993. Many strikes (formal and informal) took place, mainly because of delayed payment of teachers' salaries. School principals are prohibited from exercising the right to strike because they are defined as performing an essential service. The Special Rapporteur's efforts to discern how teachers' collective interests are represented and how the teachers' voice is heard in the many ongoing discussions about UPE yielded a complicated story going back to the initial attempts at forming trade unions in the 1960s and the opposition to them embodied in equating trade unions with strikes. The Teachers' Association survived as an actor recognized and supported by changing governments, and underwent various challenges to its leadership. As far as the Special Rapporteur could ascertain, the teachers' collective voice is lacking in policy-making, whether this relates to changes in the primary school syllabus (one proposal was to increase the number of subjects from 4 to 11) or the policy of inclusive education (integration of children with disabilities and the training of all teachers in coping with diverse-ability classes) or corporal punishment.

B. Accessibility: excluded and unreached children

59. Precise information on the children who should be but are not in school is lacking, one of the crucial obstacles being the absence of registration of children at birth. In its report to the Committee on the Rights of the Child, the Government acknowledges that "this practice and requirement has been lax". 29/ There is an annual headcount of children in school but estimates of the numbers of those outside vary a great deal. Moreover, the absence of birth registration makes for reliance on guesswork in determining children's ages.

60. School fees were abolished in January 1997 and enrolment increased from about 2.5 million in 1996, to about 5.5 million in 1998 and to about 6.5 million in April 1999. Different sources of educational statistics posit different figures, but these estimates highlight sufficiently the growth of enrolment, without it being necessary to assess figures that may or may not be accurate. The Special Rapporteur's rationale is simple: before 1997, schools had to remit fees according to the number of enrolled children and the incentives to under-report their number were many, for example allowing children to attend school without paying fees. Subsequent to the abolition of

this requirement, there is an incentive to over-report enrolments because schools receive capitation grants according to this reported enrolment. Ongoing efforts to obtain comprehensive, accurate and verifiable educational statistics are expected to yield results in the near future.

61. The cost of education had been the main obstacle to children's attending school. Families were bearing two thirds of the cost of primary education, and schooling the average seven children born to each woman was beyond the reach of most.

62. Making primary education all-encompassing and compulsory is planned for the year 2003. The priorities are enrolment of unreached children, retention of those who are enrolled and preparation for the expected surge in demand for secondary education following the trebling of the number of primary-school children. 30/

1. Affirmative action for girls and young women

63. The ratio of girls to boys in primary school increased by an annual 1 per cent between 1995 and 1998 (from 45 per cent to 47 per cent) but this average hides a great deal of variation within the country and among primary schools. Equalization of the number of girls and boys at the entry point seems close to being achieved and attention is shifting to the retention of girls, especially after the fourth grade (P-4 in Uganda) when many girls tend to drop out. The Special Rapporteur was told that in a typical class of 20 in the final, seventh year of rural primary school, there can be 17 boys and only 3 girls. Moreover, illiteracy is widespread among adult women, also in rural areas, but attracts little political or funding priority.

64. Women's status in the family is coloured by the fact that 30 per cent of marriages are polygamous. 31/ No official statistics are being collected to document the extent of polygamy, while the Second Wives and Concubines Association of Uganda was the first effort to make this phenomenon visible. The erroneous image of the marriage as necessarily monogamous has two direct consequences for children's education. Firstly, the number of children per household is determined by the number of wives and easily multiplies the four who are exempt from primary school fees. Secondly, the payment of school fees is traditionally the father's duty; this determines the criteria for selecting those children who will go to school.

65. Gross enrolment in the period 1993-1995 was 79 per cent for boys and 67 per cent for girls; net enrolment was estimated at 58 per cent for boys and 51 per cent for girls, and school attendance at 65 per cent for boys and 63 per cent for girls. 32/ Fees were abolished for four children per family, with the additional requirement that two be girls. In response to the Special Rapporteur's concern about access to school for children who were not among the chosen four, she was provided with a great deal of anecdotal evidence of the imaginative ways in which this obstacle was being overcome. She was told that four-children-per-family was interpreted as four-children-per-woman thus allowing the enrolment of children born to second and subsequent wives. The fact that many polygamous marriages are not registered made it easy for mothers to be portrayed as single parents. Unverifiable estimates placed the number of fee-paying children at between 10 and 15 per cent. The coverage of

additional children by UPE seems to be tolerated, while the four-per-family rule is not altered, so that it will represent a subliminal message about the desirability of smaller families.

66. The Government has also adopted a policy of preferential treatment in tertiary education, which promises to result in a larger pool of women for the professions and for positions requiring university education. An increase of girls attending university was achieved by weighting of their secondary school leaving examination scores by 1.5. What became known as the "1.5 bonus" was introduced in 1990 and increased female university enrolment from 22 per cent in 1989-1990 to 35 per cent in 1990-1991. One criticism has been that this has benefited girls from the most prestigious schools in and around Kampala. 33/

2. Inclusion of children with disabilities

67. The Special Rapporteur was happy to learn that a shift of approach to education for children with disabilities had taken place and the previous emphasis on special schools and/or education was being replaced by a commitment to inclusive schooling.

68. Statistics concerning schooling for children with disabilities used to be mutually contradictory. According to one source, in the early 1990s only "348 blind, 227 deaf and 299 mentally handicapped children" were in school. 34/ According to another, there were "55 special schools, 24 annexes for the handicapped and 2 schools for the deaf". 35/ Such special schools will continue for children with severe disabilities, while the inclusive approach aims to integrate as many others as possible in ordinary schools.

69. The 1996 Children's Statute provides for equal opportunities to education for children with disabilities. (The rule of thumb applied by the Ministry of Education is to assume that 10 per cent of children have some form of disability.) This was a follow-up to the 1995 Constitution and to the success of representatives of people with disabilities (unified under the umbrella organization, the National Union of Disabled Persons in Uganda (NUDIPU)) in raising their visibility and placing their problems on the human rights agenda. Special programmes for children with disabilities were initiated, without a corollary effort to introduce into educational curricula for non-disabled children contents that would tackle and strive to eliminate the inherited stigmatization of disability. The planned inclusive schooling and teacher training aimed at their adaptation to diverse-ability learners will hopefully contribute to reducing such stigmatization.

3. Children affected by armed conflicts

70. Children have been victims of armed conflicts throughout Uganda's turbulent history, but the armed conflict in northern Uganda, which has been festering for years, seems to have been particularly child-targeting. Abuses have been reported on both sides, the Lord's Resistance Army (LRA) and the Ugandan army. In 1996 the Working Group on Disappearances forwarded to the Government 41 cases of abductions of schoolchildren by the LRA 36/ and in 1998 the Commission on Human Rights adopted its second resolution on the abduction of children from northern Uganda. The Special Representative of the

Secretary-General on the impact of armed conflict on children serves as focal point for the coordination of efforts to obtain the release of children abducted by armed groups in northern Uganda. 37/ One outcome of this situation has been extremely low school enrolment, reported to be 18 per cent in 1997 and lower than 19.6 per cent in 1996. 38/

71. Schools and schoolchildren have also been the target of attacks in the south-western part of Uganda (Rwenzori mountains), where the abduction and killing of schoolchildren have been widespread. Preventing such abuses has thus far proved impossible and a great deal of public attention has focused on them. The Government's implicit rationale has been that its response to such horrors, no matter how harsh, should be judged as a lesser evil.

4. Children deprived of their liberty

72. Children who are deprived of their liberty are unable to have access to schooling unless it is provided in their places of detention. This has proved impossible because of low budgets for the administration of prisons and juvenile detention facilities which are inadequate for large and constantly increasing populations of detainees. It is precisely for people who are in the custody of the State - particularly children - that specific human rights guarantees have been elaborated in great detail to overcome the impossibility of securing budgetary allocations for them through the political process.

73. Education for children in approved schools and reformatories has not been positively assessed by the Government itself: "dilapidated structures as a result of the many years of turmoil and neglect; lack of equipment and qualified personnel to effect [the] training programme; inadequate recreation and play facilities; and poor feeding and sleeping conditions". 39/ Education was conspicuously absent from this assessment. As far as the Special Rapporteur could ascertain, no schooling is provided and children can be confined to their overcrowded dormitories or spend the entire day working. Work consists of manual labour which is poorly rewarded (the lowest reported payment is U Sh 1 per day, equivalent to $0.001).

5. Working children

74. As in other poor countries, most people - including children - work because they simply cannot afford not to. Most children work in the informal sector and their numbers, ages or conditions of work are not known. It is well known, however, that the phenomenon is widespread. Working children's access to school has not been guaranteed by the mere abolition of school fees; schooling remains expensive because of other direct costs (such as uniforms) and the opportunity cost resulting from competing claims of schooling and working. Many children work simply to be able to eat and getting them to school will necessitate not only eliminating all direct costs but also providing them with food.

75. The Special Rapporteur learned with pleasure that in November 1998 the Government signed the Memorandum of Understanding with the ILO Programme for the Elimination of Child Labour (IPEC), which was accompanied by a

$1.5 million grant, and she will follow its implementation closely. She feels that this initiative fits in well with the Government's plans to vocationalize primary education.

C. Acceptability: content and methods of schooling

76. The Special Rapporteur noted that most debates about education in Uganda revolve around necessary - but unavailable - funding. This focus is justifiable in education but many issues concerning human rights in education are not resource dependent. The content of educational curricula and textbooks does not have any effect on the cost, and resorting to corporal punishment to enforce school discipline does not have any correlation with wealth or poverty. Mother-tongue education does generate additional costs in terms of instructional materials but saves the cost of repetition because it facilitates learning.

1. Educational curriculum and textbooks

77. The primary school curriculum consists of four core subjects: English, Mathematics, Science (which includes health) and Social Studies (which combines History, Geography, Religion and Civics). These four subjects are examined in the Primary Leaving Examination (PLE) in English. The annual grading of pupils is done under the auspices of the Uganda National Examinations Board (UNEB).

78. Schools have been given freedom of choice among textbooks approved by the National Textbook Vetting Committee. USAID has supported a reform of textbook procurement, leading to contracts with an initial 8 and subsequently 10 publishers, amongst whose offers individual schools have a choice. The Government is subsidizing the cost of textbooks by transferring funds to individual schools that translate to a ratio of seven (or six) pupils per book. How a child can learn to read and write (in English, which is not the mother tongue of most pupils) sharing a single textbook with five or six other pupils is a question to which the Special Rapporteur did not obtain an answer.

79. To find out what the cost of textbooks is for those parents who wish to supply their child with his or her own set of books, the Special Rapporteur purchased two sets (one by an international and the other by a Ugandan publisher) and discovered that textbooks are prohibitively expensive. The minimum cost of a set of textbooks for the four core subjects is $20 (compared to, for example, a teacher's monthly salary of $80) and with the cost of additional books, notebooks, pens and pencils, and the school uniform easily amounts to one monthly salary per child.

80. Besides their cost, the content of textbooks raises many questions. The Ministry of Gender and Community Development (as it was then) noted in 1995 that schools socialized "girls into their subordinate roles in society. In this, the schools provide a faithful reflection of women's subordination within the home". 40/ School textbooks have reportedly been reviewed to cleanse them of a prejudicial portrayal of girls and women. The Special Rapporteur found, nevertheless many examples of such portrayal, which can be illustrated by this passage from the Social Studies textbook for P-5

(10-year-olds): "Both the Baganda and the Banyoro think that marriage is very important. Women who are not married are not well respected among them. Each man traditionally had more than one wife. He could have as many wives as he wanted. A man with many wives was respected by other members of the tribe." 41/ Following this passage, children are informed that girls must kneel (boys can stand) when greeting elders. In a final comment, they are told that such traditional customs are disappearing because of "modern Western customs".

81. The Special Rapporteur is also concerned about the portrayal of Uganda's racial, ethnic, religious and linguistic diversity in textbooks. The revival of traditional kingdoms (Buganda, Toro and Bunyoro) in 1993 opened the way for the recognition of cultural diversity, which had been artificially abolished in 1967. These are well portrayed in children's textbooks. There is no recognized minority or indigenous status for any community (those often mentioned are Karamojong, Banyarwanda, and Batwa). Nomadic communities (especially the Karamojong in the north-east) are routinely the subject of criticism in the mass media for their backwardness and often blamed for constituting an obstacle to development. They are largely absent from textbooks. The expulsion of Asian Ugandans in 1972 reduced the Asian community in the country from 76,000 in 1970 to 430 in 1980. 42/ It was made legally possible in 1982 for them to reclaim their property and this was put into practice in 1992-1993, under considerable donor pressure. There is no indication that they were welcomed back, nor is there any evidence that this multiracial country is addressing the multilayered problems of its diversity.

2. Languages of instruction

82. The heritage of missionary schooling in English, strengthened by governmental policies in the first decade of independence, was addressed through the proposed introduction of trilingualism - the mother tongue, English and Kiswahili. The mother tongue should be used as the medium of instruction in the first years of primary school, but there do not seem to be any textbooks available. A survey in 1995 found that 60 per cent of children spoke a different language at home from the language of instruction in school. 43/ Kiswahili and English should be taught as subjects during the first four years, but few textbooks are available in Kiswahili. The language of instruction shifts to English in the fifth grade, with the mother tongue and Kiswahili taught as subjects.

3. School discipline

(a) Corporal punishment

83. Joe Oloka-Onyango noted that corporal punishment is brought to light only when a child is severely injured, pointing out "the absence of a monitoring system to ensure that such abuse of power by teachers does not take place". 44/ Besides this absence of monitoring, teachers form part of the public service and there are no grounds for their dismissal for abuse of power over their pupils. Perhaps the transfer of authority for teachers' recruitment from the central to district authorities will increase the involvement of the community, although this may not prevent corporal punishment because many parents remain supportive of it. Corporal punishment

is widely used and Catherine Watson cited research done at the Mulago Child Health Development Centre which showed that mothers were the principal enforcers of corporal punishment and between 55 per cent and 82 per cent of them reported caning, slapping or beating their children. 45/ Corporal punishment was legalized by the Education Act, which attempted to confine the administration of corporal punishment to head teachers, but it is acknowledged that "teachers do cane children in all the schools". 46/ The Ministry of Education issued a circular instructing teachers not to resort to corporal punishment, while individual cases started prompting the law enforcement agencies and the Uganda Human Rights Commission to react. Cases resulting in severe injury have been prosecuted and have often resulted in the payment of the cost of medical treatment for the child and compensation to the parents.

84. The Special Rapporteur is concerned about the effects of exposure of Ugandan children to violence, whether it is manifested in corporal punishment in the family and in school, or in abuse of children in armed conflicts. The missionary tradition of schooling which combines obedience and strict enforcement of school discipline socializes children into following orders and physical punishment for disobeying them, whether such orders are understood or not. The Special Rapporteur heard a great deal of opposition to changing methods of enforcing school discipline and noted the paucity of counter-arguments which would associate early exposure of children to obedience and violence with their adult behaviour. She very much hopes for an initiative to rupture inter-generational transmission of such a "culture of violence".

(b) Pregnant schoolgirls

85. While corporal punishment has elicited some public attention, pregnant schoolgirls still have to leave school and are unable to register at the same school after delivery. No information is available on this issue nor is it on the educational, gender or human rights agenda. The Special Rapporteur was given the well-known explanation about the background to this practice, going back to the heritage of missionary schools. Justifications for this practice included assertions that any form of tolerance of child pregnancy would be seen as encouragement. No association is made with the best interests of the (pregnant) child nor is there an acknowledgment of the fact that girls have not been equipped with the knowledge and skills necessary to prevent pregnancy and are thus doubly victimized. The Special Rapporteur is concerned about the lack of attention to this issue, especially in view of Uganda's initiative to speed up the entry into force of the Charter on the Rights and Welfare of the African Child, which contains an explicit provision obliging Governments to enable child mothers to continue their education.

86. The introduction of family life education in school was prompted by the HIV/AIDS pandemic, but access to contraceptives did not follow (contraceptive use is still estimated at below 10 per cent), nor did a family planning programme that would inform and empower girls and women to protect themselves from unwanted pregnancy or HIV infection. Uganda's success in halting the spread of HIV infection (HIV infection rates have been falling since 1995) has been much praised and rightly so. This success was based on a widespread information and education campaign, which necessarily included some sexuality-related content.

87. The Special Rapporteur is fully aware of the difficulties involved in reconciling freedom of religion with the best interests of the child, when these require providing the child with means of self-protection against HIV infection or pregnancy. She is not arguing that this is easy, but rather that it is both possible and necessary. Similarly, the removal of pregnant girls from school reinforces the image of these girls as unworthy of further schooling and also removes them from the public eye, making it easy to avoid tackling the causes of child pregnancy.

D. Adaptability: orientation and purpose of education

88. Basic education was defined in the 1992 white paper as the "provision of opportunities for acquiring the minimum package of knowledge, skills and attitudes that will enable one to realize one's potential and to contribute constructively to local and national development". A Curriculum Review Task Force was appointed in 1992 to formulate a syllabus that would reflect the contemporary national and educational objectives. The Task Force recommended science and basic technology as cardinal areas of study and an emphasis on vocational skills, as well as development of an understanding of one's rights, civic responsibilities and duties, including those related to responsible parenthood. 47/ Revision of the syllabus continued, with the intention of introducing new subjects, such as Agriculture or Business and Entrepreneurship Education so as to vocationalize primary schooling and make it useful for learners - a vast majority - who will have no subsequent schooling. A proposal was made that the number of subjects be increased to 11. It was unlikely to be accepted because of the increased demands it would place upon teachers and the prohibitive cost entailed in purchasing textbooks.

89. A comprehensive strategy for education is expected to be drawn up following the current focus on UPE. This is necessary before the first UPE generation leaves primary school in 2003 and it becomes obvious that 13-year-old children may not be equipped to earn their livelihood, even if they were legally allowed to start working at this early age. However, they may not be able to continue their education owing to the shortage or excessive cost of secondary education. The planned vocationalization of primary education thus needs broadening as a follow-up to primary schooling. The Special Rapporteur was discouraged by information about the lack of domestic resources or donor interest in vocational education and training.

V. CONCLUSIONS AND RECOMMENDATIONS

90. The conceptual bridge to link education, gender and human rights is yet to be built. A great deal has been achieved for gender, much less to define and operationalize the right to education and human rights in education. The Special Rapporteur is concerned about the widespread perception of universal primary education as a gift and the absence of legislative underpinning that would specify rights and duties, freedoms and obligations in education. She recommends that the immense improvement in access to school resulting from UPE be used as an opportunity to ensure sustainability of primary education through an all-encompassing public debate about a self-sustaining educational system that would lead to its legal entrenchment.

91. Making primary education universal by the year 2003 requires a coordinated effort by the international creditor and/or donor community and the Government. The Special Rapporteur was happy to learn about further possibilities for debt relief opened by the G-8 meeting in June 1999 and the broadening international support for converting funds freed by debt relief into improved availability and accessibility of schooling for Uganda's children and youth. She recommends that human rights impact assessment be institutionalized to identify international factors inhibiting or facilitating access to school and thus clarify the impact of international debt relief and structural adjustment policies. The creditors' and/or donors' support to education gives countenance to the timeliness of such an initiative.

92. Mainstreaming human rights and gender in education necessitates the recognition of all relevant human rights issues. Thus far the focus has been on availability and accessibility of primary schooling. The Special Rapporteur has been gladdened to see how much attention is being devoted to improving girls' access to school, their consistent attendance and completion. She suggests that this momentum be used as the basis for gender mainstreaming. This requires addressing difficult and controversial issues such as schoolgirl pregnancy, adaptation of the content of educational curricula and textbooks to the objective of equipping girls with the knowledge and skills necessary for them to avoid early pregnancy, and broadening the objectives and purposes of education to provide the future generations of women in Uganda with options unavailable to the past and current generations of women. The Special Rapporteur recommends that an effort be made to overcome the fragmented attention to gender, specifically in view of the importance of women's land ownership for the status of girls and women throughout rural Uganda. The interrelatedness of human rights provides a comprehensive framework for reviewing all sectoral policies so as to adjust them to human rights requirements. The mutually reinforcing gender commitments of the Government and the international donor community provide an excellent basis for embarking on this process.

93. The Special Rapporteur is concerned about the absence of attention to many important human rights issues in the sector of education. She noted that the collective voice of teachers is not heard in many professional and public debates about education, and that the trade union freedoms of primary schoolteachers remain constrained by the developments of the past decades. The increased duties and responsibilities of teachers have not been matched with recognition of their trade union freedoms. The vast growth of primary school enrolment and additional expectations upon teachers stem from the explicit recognition of the need to adapt teaching to girls as well as boys, to learners with disabilities as well as able-bodied children, and to the multilingual environment. The Special Rapporteur recommends that particular attention be paid to the full recognition of teachers' trade union freedoms and that the collective voice of teachers be solicited throughout the process of educational planning and policy-making and their translation into reality.

94. Existing international human rights law provides guidance for addressing all human rights issues in education. The Government has ratified most relevant human rights treaties with the exception of crucial ILO conventions, but its compliance with its reporting obligations leaves much to be desired.

Neither the contents of human rights treaties as they apply to education, nor the reporting obligations are known to many relevant actors - either international or Ugandan - working in education.

95. The Special Rapporteur recommends that a human rights strategy be formulated on the basis of Uganda's existing international and domestic commitments and that the reporting process under the ratified human rights treaties be utilized for stocktaking. This process would make visible many issues that have thus far escaped attention, such as non-registration of children at birth, or non-recording of race, ethnicity, tribe and religion (as Uganda's Constitution requires) upon entry into the educational system, and would enable the creation of baseline data and the setting up of safeguards against discrimination, or monitoring the association between schooling and child labour.

96. The articulation of a human rights strategy would usefully complement the emerging design of a follow up to UPE. The first UPE generation will leave primary school in the year 2003 and expectations concerning the programme will be tested at that time. They are many. UPE is expected, on the one hand, to contribute to poverty eradication and, on the other hand, to create an increased demand for secondary education, while also contributing to postponed childbearing and a smaller number of children, as well as generating a shared notion of the rights and duties of citizenship. Education is proverbially loaded with many diverse expectations as to what it should accomplish; heightened expectations tend to shift to disappointment if they are not met, which then reduces commitment to education. A human rights strategy could usefully combine many loose threads within and outside the sector of education into a comprehensive rights based vision of Uganda's future.

Notes

1/ The Uganda Commission of Inquiry into the Violation of Human Rights, Pearl of Blood, Summary of the Report of the Commission, Kampala, October 1994, p. 10.

2/ Statement of Godfrey Binaisa, President of Uganda, at the 14th plenary meeting of the General Assembly, Official Records of the General Assembly, Thirty-fourth session, Plenary meetings, vol. I, pp. 269-270.

3/ Report of the Secretary-General to the Commission on Human Rights on assistance to Uganda, 8 December 1983 (E/CN.4/1984/45), pp. 2-3 and 22.

4/ A.R. Tucker, Eighteen Years in Uganda and East Africa, Arnolds, London, 1908, vol. II, p. 151.

5/ Department of Education - Report by the Education Secretary of the African Inland Mission, 1925 Annual Report, Uganda Protectorate Government Printer, Entebbe, 1926, p. 16.

6/ Each Government adopted a formal education strategy. The first four-year plan (1963-1966) emphasized secondary and higher education in the spirit of what was then called "manpower development", and this thrust was followed in the second five-year plan (1966-1971). The latter plan was interrupted by a change of policy in 1969, denoted as a shift to socialism. The third five-year plan (1971-1976) continued the previous emphasis on secondary education, with a change of orientation in 1975 towards indigenization and rural development. None of these plans materialized. The end of warfare in 1986 was followed by the rehabilitation programme (1988-1991), which started rebuilding educational infrastructure.

7/ Ministry of Education, Evolution of Uganda's Educational System, Kampala, 1986, p. 4.

8/ Education for National Integration and Development. Report of Education Policy Review Commission, Ministry of Education, Kampala, January 1989; the final version was issued in April 1991.

9/ Government of Uganda, Education for National Integration and Development. Government White Paper on the Education Policy Review Commission Report, Government Printer, Kampala, April 1992.

10/ The Republic of Uganda, Background to the Budget 1999/2000, Ministry of Finance, Planning and Economic Development, Kampala, June 1999, p. 89.

11/ A comparison between results of the 1989/90 Household Budget Survey and the 1992/93 Integrated Household Survey revealed "a dramatic fall in household expenditure". The World Bank, Uganda: The Challenge of Growth and Poverty Reduction. A World Bank Country Study, Washington, D.C., January 1996, para. 21, p. 87.

12/ "Uganda: Enhanced structural adjustment facility policy framework paper, 1998-99-2000/01", prepared by the Ugandan authorities in collaboration with the staffs of the International Monetary Fund and the World Bank, 28 October 1998, para. 5.

13/ Republic of Uganda, "Memorandum of economic and financial policies", annex to the Letter of Intent dated 28 October 1998, addressed to the Managing Director of the International Monetary Fund by the Minister of Finance, Planning and Economic Development, para. 11.

14/ The World Bank, Uganda: The Challenge of Growth and Poverty Reduction. A World Bank Country Study, Washington, D.C., January 1996, para. 4.21, p. 67.

15/ "Uganda: Enhanced structural adjustment facility policy framework paper, 1998-99-2000/01", prepared by the Ugandan authorities in collaboration with the staffs of the International Monetary Fund and the World Bank, 28 October 1998, para. 1.

16/ The World Bank Annual Report 1998, Washington, D.C., 1999, table 1: HIPC initiative: Status of country cases, p. 5.

17/ Uganda ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1985, the International Covenant on Economic, Social and Cultural Rights in 1986, the Convention on the Rights of the Child in 1990 and the International Covenant on Civil and Political Rights in 1995, all without reservations, as well as the African Charter on Human and Peoples' Rights and the Charter on the Rights and Welfare of the African Child.

18/ Report to the Committee on the Elimination of Discrimination against Women (fourteenth session), (A/50/38) 31 May 1995, paras. 286 and 335-336.

19/ Committee on the Rights of the Child, Concluding observations: Uganda (CRC/C/15/Add. 80), of 21 October 1997, paras. 16 and 18.

20/ Uganda Human Rights Commission, 1997 Annual Report, Kampala, July 1998, p. 49.

21/ A. Kelles-Viitanen, "Employment promotion of women in Uganda: From disabling to enabling environment", ILO, 1994, p. 11, mimeographed.

22/ Republic of Uganda, Education Strategic Investment Plan 1998-2003, Government of Uganda, Kampala, November 1998.

23/ The Republic of Uganda, Background to the Budget 1999/2000, Ministry of Finance, Planning and Economic Development, Kampala, June 1999, p. 20.

24/ E. Ablo and R. Reinikka, Do Budgets Really Matter? Evidence from Public Spending on Education and Health in Uganda, Policy Research Working Paper No. 1926, The World Bank, Washington, D.C., 1996, p. 31.

25/ Republic of Uganda, Education Strategic Investment Plan 1998-2003, Government of Uganda, Kampala, November 1998, p. 14.

26/ The data of the Ministry of Education placed net primary enrolment at 55 per cent in 1994/1995, 56 per cent in 1995/1996, and the preliminary estimate for 1997/1998 was 91 per cent. The rate of completion of the seven years of primary school (P1-P7) was 30 per cent in 1994/1995, 35 per cent in 1995/1996 and was estimated at 40 per cent for 1997/1998. Republic of Uganda, Memorandum of economic and financial policies annexed to the Letter of Intent dated 28 October 1998, addressed to the Managing Director of the International Monetary Fund by the Minister of Finance, Planning and Economic Development, table 1: Social outcome indicators, 1994/1995-2004/2005, p. 13.

27/ UNESCO Statistical Yearbook 1998, UNESCO, Paris, 1999, table 3.97.

28/ "The development of education in Uganda 1990-1992", a report to the 43rd session of the International Conference on Education, Uganda National Commission for UNESCO, 1992.

29/ Committee on the Rights of the Child, Initial report of Uganda (CRC/C/3/Add. 40), 17 June 1996, para. 54.

30/ The preliminary results of the school census (called "headcount") of 11 May 1999 placed primary school enrolment at 6.2 million (out of which 5.8 million under UPE), while the secondary enrolment of 462,300 includes both public and private schools. For Kampala, for example, UPE covered 74 per cent of learners, while at the secondary level the majority were in private schools.

31/ C. Watson Children First. Talking with Your Community about Child Welfare and Development, The Republic of Uganda & UNICEF, Kampala, December 1996, p. 13.

32/ UNICEF, The State of the World's Children 1999, UNICEF, New York, 1999, p. 109.

33/ J.B. Mugaju, ed., An Analytical Review of Uganda's Decade of Reforms 1986-1996, Fountain Publishers, Kampala, 1996, p. 72.

34/ "The development of education in Uganda 1990-1992", a report to the 43rd session of the International Conference on Education, Uganda National Commission for UNESCO, 1992.

35/ Committee on the Rights of the Child, Initial report of Uganda (CRC/C/3/Add.40), 17 June 1996, para. 174.

36/ Commission on Human Rights, Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1999/62), 28 December 1998, para. 307.

37/ Commission on Human Rights, Abduction of children from northern Uganda. Report of the Secretary-General (E/CN.4/1999/69), 27 January 1999, para. 36.

38/ The Republic of Uganda/UNICEF, Northern Uganda Psycho-Social Needs Assessment Report (NUPSNA), Kampala, November 1998, p. 111.

39/ Committee on the Rights of the Child, Initial report of Uganda (CRC/C/3/Add.40), 17 June 1996, para. 256.

40/ "The girl child in Rwanda: a situation analysis (Desk review)", Directorate of Gender, Ministry of Gender and Community Development, Kampala, 1995, p. 95, mimeographed.

41/ G. Wambuzi and T. Bukenya, Sharing Our World 5: Living Together in Uganda, Macmillan Social Studies Programme, Kampala, 1996, p. 27.

42/ Y. Tandon and A. Raphael, The New Position of East Africa's Asians: Problems of a Displaced Minority, The Minority Rights Group, Report No. 16, London, November 1984, p. 2.

43/ N. Postletwaite, "The conditions of primary schools in least-developed countries", International Review of Education, vol. 44, 1998, No. 4, p. 306.

44/ J. Oloka-Onyango, "Uganda", in P. Baehr and others (eds.) Human Rights in Developing Countries Yearbook 1996, Kluwer Law International & Nordic Human Rights Publications, 1997, p. 399.

45/ C. Watson, Children First. Talking with Your Community about Child Welfare and Development, The Republic of Uganda & UNICEF, Kampala, December 1996, p. 25.

46/ Committee on the Rights of the Child, Initial report of Uganda (CRC/C/3/Add.40), 17 June 1996, para. 211.

47/ B.P. Kiwanuka, Curriculum Review Task Force Report, NCDC, Kampala, 1993.